

116TH CONGRESS
1ST SESSION

S. 2215

To prohibit agreements between employers that directly restrict the current or future employment of any employee.

IN THE SENATE OF THE UNITED STATES

JULY 23, 2019

Mr. BOOKER (for himself and Ms. WARREN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To prohibit agreements between employers that directly restrict the current or future employment of any employee.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “End Employer Collu-
5 sion Act”.

6 **SEC. 2. UNFAIR METHODS OF COMPETITION RELATING TO**
7 **RESTRICTIVE EMPLOYMENT AGREEMENTS.**

8 (a) DEFINITIONS.—In this section:

9 (1) EMPLOY; EMPLOYER; EMPLOYEE.—The
10 terms “employ”, “employer”, and “employee” have

1 the meanings given such terms in section 3 of the
2 Fair Labor Standards Act of 1938 (29 U.S.C. 203).

3 (2) RESTRICTIVE EMPLOYMENT AGREEMENT.—

4 The term “restrictive employment agreement”
5 means any agreement that—

6 (A) is between two or more employers, in-
7 cluding through a franchise agreement or a
8 contractor-subcontractor agreement; and

9 (B) prohibits, restricts, or in any way lim-
10 its one employer from employing, soliciting, en-
11 ticing, or hiring another employer’s employees
12 or former employees.

13 (b) CONDUCT PROHIBITED.—It shall be unlawful for
14 any entity to—

15 (1) enter into a restrictive employment agree-
16 ment; or

17 (2) enforce or threaten to enforce a restrictive
18 employment agreement.

19 (c) REMOVAL OF RESTRICTIVE EMPLOYMENT
20 AGREEMENTS IN FRANCHISE AGREEMENTS.—Any em-
21 ployer that has in effect a franchise agreement that in-
22 cludes a restrictive employment agreement that was en-
23 tered into prior to the date of enactment of this Act shall,
24 not later than the date which is 6 months after the date

1 of enactment of this Act, amend the franchise agreement
2 to remove the restrictive employment agreement.

3 (d) ENFORCEMENT.—

4 (1) PRIVATE RIGHT OF ACTION.—

5 (A) IN GENERAL.—Any person who fails to
6 comply with subsection (b) or (c) shall be liable
7 to any individual in an amount equal to the
8 sum—

9 (i) of any actual damages sustained
10 by the individual as a result of the failure;

11 (ii) such amount of punitive damages
12 as the court may allow; and

13 (iii) in the case of any successful ac-
14 tion to enforce any liability under this sec-
15 tion, the costs of the action together with
16 reasonable attorney’s fees as determined by
17 the court.

18 (B) VENUE.—Any person may bring a civil
19 action under subparagraph (A) in any appro-
20 priate district court of the United States.

21 (2) FEDERAL TRADE COMMISSION.—

22 (A) POWERS OF COMMISSION.—

23 (i) IN GENERAL.—The Commission
24 shall enforce this section in the same man-
25 ner, by the same means, and with the

1 same jurisdiction, powers, and duties as
2 though all applicable terms and provisions
3 of the Federal Trade Commission Act (15
4 U.S.C. 41 et seq.) were incorporated into
5 and made a part of this section.

6 (ii) PRIVILEGES AND IMMUNITIES.—
7 Any person who violates subsection (b) or
8 (c) shall be subject to the penalties and en-
9 titled to the privileges and immunities pro-
10 vided in the Federal Trade Commission
11 Act (15 U.S.C. 41 et seq.).

12 (e) RESTRICTIVE EMPLOYMENT AGREEMENTS.—
13 Nothing in this Act may be construed to reduce the
14 amount of damages available to a plaintiff in a case involv-
15 ing a restrictive employment agreement that is between
16 2 or more employers that are not affiliated with each other
17 through a franchise agreement or contractor-subcon-
18 tractor agreement.

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